

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Robert G. Taub, Vice Chairman;
Mark Acton;
Tony Hammond; and
Nanci E. Langley

Competitive Product Prices
Global Plus 1C Contracts (MC2012-6)
Negotiated Service Agreements

Docket No. CP2013-39

ORDER APPROVING MODIFICATION TO
GLOBAL PLUS 1C AGREEMENT

(Issued August 14, 2013)

I. INTRODUCTION

The Postal Service has filed notice of a modification (Modification One) to the Global Plus 1C agreement approved in Docket No. CP2013-39 (Agreement).¹ Modification One consists of rate and format changes to existing Annex 3, which provides prices for Commercial ePacket service, and the addition of a paragraph to Article 6, which addresses obligations of the Postal Service. *Id.*, Attachment 1 at 1. The new paragraph requires the Postal Service to provide its contracting partner, on a

¹ Notice of the United States Postal Service of Filing Modification to Global Plus 1C Negotiated Service Agreement, August 2, 2013 (Notice). The Notice was filed pursuant to 39 C.F.R. § 3015.5. *Id.* at 1. See also Order No. 1638, Order Approving Additional Global Plus 1C Negotiated Service Agreement, January 25, 2013.

periodic basis, with a list of the countries to which Commercial ePacket service is available. *Id.* at 2.

For the reasons stated below, the Commission approves the inclusion of the Agreement, as revised by Modification One, on the competitive product list.

II. BACKGROUND

In Order No. 1638, the Commission approved the inclusion of the Agreement that is the subject of this docket within the Global Plus 1C product on the competitive product list.² In Order No. 1798, the Commission provided public notice of the Postal Service's filing of Modification One, re-opened the original docket for consideration of matters raised by the Notice, and took other administrative steps.³

III. THE POSTAL SERVICE POSITION

The Postal Service seeks inclusion of the Agreement, as revised by Modification One, on the competitive product list on the grounds that its filing establishes compliance with 39 U.S.C. § 3633 and Commission rule 3015.5. Notice at 1. The unredacted certification required by 39 C.F.R. § 3015.5(c)(2) provides cost and pricing details, and states that prices result in cost coverage in excess of the minimum required by the enabling Governors' Decision (No. 11-6). Notice, Attachment 2 at 1. It also states that prices demonstrate that the Agreement, as revised by Modification One, should cover its attributable costs, preclude the subsidization of competitive products by market dominant products, and should not impair the ability of competitive products as a whole to cover an appropriate share of institutional costs. *Id.*

²See Order Approving Additional Global Plus 1C Negotiated Service Agreement, January 25, 2013 (Order No. 1638).

³Notice Concerning Modification to Global Plus 1C Negotiated Service Agreement, August 5, 2013 (Order No. 1798).

IV. COMMENTS

The Public Representative filed comments on August 12, 2013.⁴ No other comments were received. The Public Representative's review of the Postal Service's filing leads him to conclude that the Commission should continue to include the Agreement, as modified, within the Global Plus 1C product. PR Comments at 2. However, the Public Representative characterizes the modification as adding "rate stratification" to international delivery points. The Public Representative does not define this term, but it appears to refer to a change in the way mailing destinations are identified in Annex 3 in Modification One (by rate groups), relative to the way they were identified in Annex 3 in the Agreement as originally filed and approved. This change gives rise, at least in part, to the Postal Service's new obligation to provide its contracting partner with a list of countries to which Commercial ePacket service is available.

The Public Representative asserts, among other things, that the stratifications (rate groups) result in a decrease in volume for the component of the Agreement subject to modification (Commercial ePacket service) and a related decrease in revenue and cost coverage. *Id.* He concludes that the Agreement's overall revenue and cost projections decrease dramatically under Modification One, yet the projected total change in cost coverage is negligible. *Id.* He therefore recommends the Commission fully explore the effect of stratifying rates based on international delivery for this and future negotiated service agreements. *Id.*

V. COMMISSION ANALYSIS

Scope and nature of review. The Commission's responsibilities in this case are to ensure that the Agreement, as revised by Modification One, continues to: (1) qualify as functionally equivalent to the Global Plus 1C baseline agreements (Docket Nos.

⁴ Public Representative Comments on Notice Concerning Modification to Global Pus 1C Negotiated Service Agreement, August 12, 2013 (PR Comments).

CP2012-12 and CP2012-13); and (2) satisfy the requirements of 39 U.S.C. § 3633 and applicable Commission rules (39 C.F.R. §§ 3015.5 and 3015.7).

Functional equivalence. Modification One changes the Agreement in two ways, *i.e.*, by adjusting Commercial ePacket rates in existing Annex 3 and by adding a new paragraph to Article 6. The new paragraph addresses a Postal Service obligation to provide periodic notice to its contracting partner of the countries to which Commercial ePacket service is available. Neither of these revisions affects the Commission's finding with respect to functional equivalence to other agreements included within the Global Plus 1C product. Thus, the Agreement, as revised by Modification One, may be included within the Global Plus 1C product.

Cost considerations. The Commission has reviewed the Notice, supporting financial analyses provided under seal, and the Public Representative's comments. Based on this review, the Commission finds that the Agreement, as revised by Modification One, should cover its attributable costs, as required by 39 U.S.C. § 3633(a)(2). It finds that the Agreement, as revised by Modification One, should not result in competitive products being subsidized by market dominant products as prohibited by 39 U.S.C. § 3633(a)(1). The Commission also finds the Agreement, as revised by Modification One, should have a positive effect on competitive products' contribution to institutional costs, consistent with 39 U.S.C. § 3633(a)(3). Accordingly, a preliminary review of the Agreement, as revised by Modification One, indicates that it is consistent with the provisions applicable to rates for competitive products. The change in the format of Annex 3, of concern to the Public Representative, appears to be consistent with one of several accepted ways mailing destinations can be presented. The Commission does not find that this change affects the overall consistency of the Agreement, as revised by Modification One, with 39 U.S.C § 3633. With respect to the Public Representative's conclusion that volumes and revenues have decreased as a result of this change, the Commission finds that the financial workpapers depict the revenue, cost and cost coverage associated with the remaining period under Agreement, as revised by Modification One, as opposed to the full contract period. In

the future, the Postal Service's workpapers should represent the entire contract period as statutory requirements apply to the full contract period.

Follow-up submissions. The Postal Service shall promptly notify the Commission of the effective date of Modification One if that date differs from the date identified in the Notice. The Postal Service shall promptly notify the Commission if the Agreement, as revised by Modification One, terminates early and shall provide the date of termination. In addition, within 30 days of the expiration or termination of the Agreement, as revised by Modification One, the Postal Service shall file costs, volumes, and revenues disaggregated by weight and country group associated with the contract, including any penalties paid.

VI. ORDERING PARAGRAPHS

It is ordered:

1. The Global Plus 1C Agreement approved in Docket No. CP2013-39, as revised by Modification One, is included within the Docket No. MC2012-6 Global Plus 1C (CP2012-12 and CP2012-13) product.
2. The Postal Service shall notify the Commission if the effective date of the Global Plus 1C Agreement approved in Docket No. CP2013-39, as revised by Modification One, differs from the date identified in the Postal Service's Notice.
3. The Postal Service shall notify the Commission if the Global Plus 1C Agreement approved in Docket No. CP2013-39, as revised by Modification One, terminates early and shall provide the early termination date.

4. Within 30 days of expiration, or upon early termination of the Global Plus 1C Agreement approved in Docket No. CP2013-39, as revised by Modification One, the Postal Service shall file related costs, volumes, and revenues data.

By the Commission.

Shoshana M. Grove
Secretary